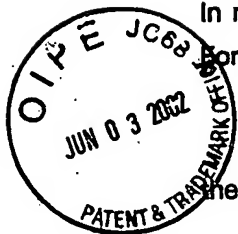


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Moussey et al.

For: APPARATUS AND METHOD FOR CONTROL OF TISSUE/IMPLANT INTERACTIONS



the specification of which:

(check and complete (a), (b), or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 01/31/02, as Application Serial No. 0 / 10/066,393
and was amended on _____ (if applicable).
- (c) ☐ was described and claimed in International Application No. _____
filed on _____ and as amended on _____ (if any).

RECEIVED

JUN 10 2002

OFFICE OF PETITIONS

STATEMENT OF FACTS IN SUPPORT OF FILING
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)

NOTE: This statement as to the pertinent facts concerning the refusal of the nonsigning inventor to join in the application or where the omitted inventor cannot be found or reached must accompany the declaration signed on behalf of the omitted inventor by a joint inventor or by a legal representative who shows a proprietary interest. Where the entity with a proprietary interest executes the declaration on behalf of the omitted inventor there must also be a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. 37 C.F.R. §§ 1.47(a) and (b).

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

(check next item, if applicable)

- ☐ Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

NOTE: The statement "must be signed, where at all possible, by a person having first-hand knowledge of the facts recited therein." M.P.E.P. § 409.03(d), 7th ed. If different persons have first-hand knowledge of different facts, then a declaration from each such person as to those facts he or she knows should be submitted separately.

NOTE: Copies of documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions. M.P.E.P. § 409.03(d), 7th ed.

(Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor [1-6] page 1 of 8)

05/03/2002 EXAMINER 00000083 10056393

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LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR

NOTE: The last known address of the nonsigning inventor must be stated so that the PTO can forward the notice of filing of the application to the nonsigning inventor at said address. (37 C.F.R. § 1.47). A post office box is insufficient. M.P.E.P. § 409.03(e), 6th ed.

Jeffrey Koberstein

Full name of nonsigning inventor

116 Wildwood Road, Storrs, CT 06268

Last known address of nonsigning inventor

NOTE: Ordinarily, the last known address will be the last known residence of the nonsigning inventor, but other addresses at which the nonsigning inventor may be reached should also be given in the space below. M.P.E.P. § 409.03(e), 6th ed.

Jeffrey Koberstein
Columbia University
Mudd Building Room 812
500 West 120th Street
MC 4721
New York, NY 10027



IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Margaret M. Genest

Name

70 Wilcox Street

Address

Bristol, CT 06010

**DETAILS OF REFUSAL OF NONSIGNING INVENTOR
TO SIGN APPLICATION PAPERS**

NOTE: Complete either these facts or the facts as to **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR**.

NOTE: The circumstances of this refusal must be specified by the person to whom the refusal was made and, before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings and declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The time and place of an oral refusal should be stated, or a copy of the written refusal should be attached.

If it is the conduct as a whole of the nonsigning inventor that is the refusal, then all the facts upon which this conclusion is based should be stated and a copy of any documentary evidence supporting these facts should be attached.

Where there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Whenever the nonsigning inventor gives a reason for refusing to sign the application papers, that reason should be stated. M.P.E.P. § 409.03(c), 7th ed.

1. On March 20, 2002, I sent Declaration/Power of Attorney documents to Kim Post at the Institute of Material Sciences in Storrs. A copy of the cover letter is attached as Exhibit 1.
2. On April 15, 2002, I spoke with Jeff Koberstein regarding the documents. He told me that he was not going to sign anything from UConn as UConn had broken their contract with him.
3. That same day I sent an e-mail to Michael Newborg regarding the conversation with Jeff Koberstein. A copy of this email is attached as Exhibit 2.
4. On April 17, 2002, I sent a follow-up e-mail that confirmed his refusal to sign the Declaration/Power of Attorney. This e-mail is attached as Exhibit 3.

Date signed: 5/28/02



Signature
Margaret Genest